



# United States Department of the Interior

## OFFICE OF HEARINGS AND APPEALS

Interior Board of Land Appeals  
801 N. Quincy Street, Suite 300  
Arlington, Virginia 22203



703-235-3750

703-235-8349 (fax)

February 20, 2015

IBLA 2014-205	)	Case No. 09-01122.002
	)	
ENERGEN RESOURCES CORPORATION	)	Oil and Gas Royalties
	)	
	)	Motion to Compel Disclosure Denied;
	)	Motion for Confidentiality Granted;
	)	Motion to Supplement the Record
	)	Granted

### ORDER

The Office of Natural Resources Revenue (ONRR) previously submitted the administrative record in the above-captioned appeal accompanied by a request to not disclose certain confidential information. Energen Resources Corporation (Energen) subsequently moved the Board to compel disclosure of those materials. By order dated November 24, 2014, the Board ordered the Office of Natural Resources Revenue (ONRR) to clarify its request for confidentiality, specifically explaining whether it opposed disclosure of confidential materials to other parties to the appeal under 43 C.F.R. § 4.31(c). ONRR has since responded. In its response, ONRR confirms that it opposes disclosure of certain record materials even to Energen. ONRR Response at 2.

ONRR has agreed to disclose some of the documents it originally marked in the record as confidential, because the non-party gas companies which submitted those documents do not oppose disclosure. *Id.* at 3. However, Williams Midstream (Williams) asserted to ONRR that certain documents it submitted are protected from disclosure under the Trade Secrets Act, 18 U.S.C. § 1905. Williams describes these documents as “a detailed set of operational, schematic, and accounting information . . . that Williams does not routinely disclose to the public, especially its own customers.” *Id.*, Ex. A at 1. Therefore, Williams argues it would be highly prejudiced by disclosure of this material to Energen, which is its customer. *Id.* Based on Williams’ position, ONRR opposes disclosure of Williams’ documents.

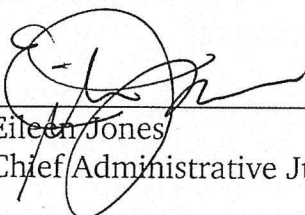
A party wishing to submit record materials in a proceeding before the Board, and to keep those materials confidential from other parties to the proceeding, must satisfy the requirements of 43 C.F.R. § 4.31(d). The submitting party must 1)

identify the confidential material and the legal basis for confidentiality, 2) show that the person protected by the confidentiality has refused to consent to disclosure, and 3) provide a redacted copy of the material, or a description of the material where redaction is impractical. 43 C.F.R. § 4.31(a)(2)(i), (d)(1) and (2).

We find that ONRR has satisfied the requirements of 43 C.F.R. § 4.31. ONRR has adequately described the confidential documents, demonstrated that Williams does not consent to disclosure, and shown that disclosure of this confidential business information would likely prejudice Williams. Accordingly, we deny Energen's motion to compel disclosure and grant ONRR's request for confidentiality.

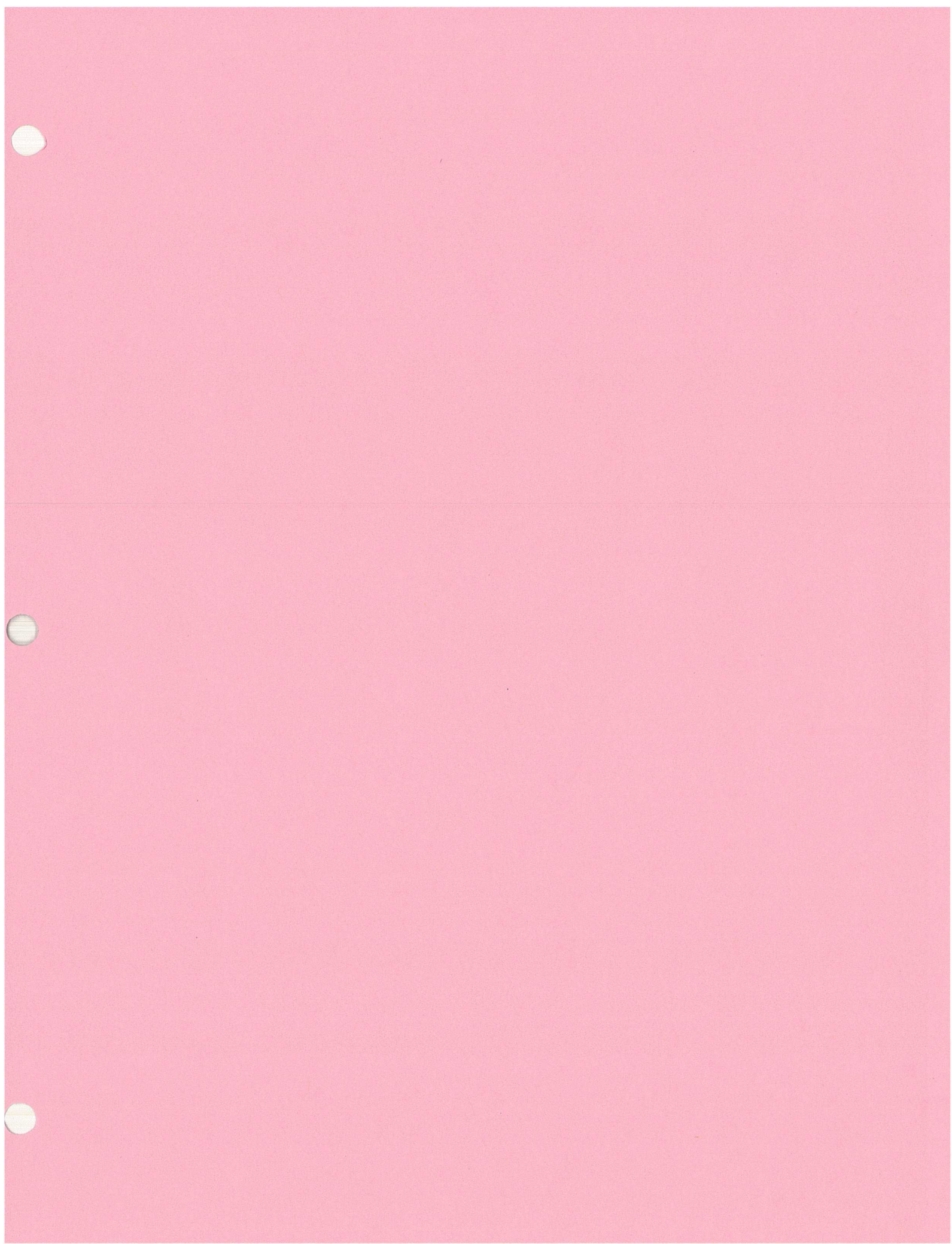
Energen previously moved to supplement the record with certain documents it obtained through a Freedom of Information Act request. Energen argues these documents describe the process ONRR used "to determine the deductible percentages of rates charged by third-party service providers for services provided to any production from Energen's leases." Motion to Supplement the Record at 1-2. ONRR opposes the request, arguing the Board should consider the record to be complete as submitted by ONRR absent a clear showing that relevant material was omitted. Opposition to Motion to Supplement the Record at 2.

We are not persuaded by ONRR's argument in opposition to the request. The Board has routinely allowed parties to supplement the record on appeal. *Wyo. Outdoor Council*, 160 IBLA 387, 398 (2004). Although an agency's decision must be supported by a rational basis as demonstrated in its record, the Board is not limited to review of the materials submitted by the agency, and has a duty to review as complete a record as possible. *Id.*; *Yates Petroleum Corp.*, 163 IBLA 300, 304 n.2 (2004). We grant the motion to supplement the record.



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Eileen Jones  
Chief Administrative Judge





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703-235-3750

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June 4, 2015

IBLA 2015-145

CALPINE CORPORATION

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CACA 13109A

Geothermal Unit Participating Area

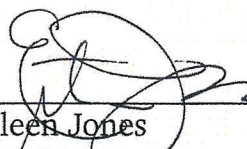
Motion to Limit Disclosure of  
Confidential Information Granted

### ORDER

Calpine Corporation (Appellant) has moved to limit disclosure of certain materials from the administrative record in the above-captioned appeal. Appellant asserts its Petition for Stay and the exhibits appended thereto contain proprietary geothermal resources data that qualifies for an exemption under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4), (9) (2012), and the Geothermal Steam Act, 30 U.S.C. § 1018 (2012). Appellant indicates that it is not requesting nondisclosure to other parties under 43 C.F.R. § 4.31(d) and that the parties may obtain access to the cited materials under the conditions provided in 43 C.F.R. § 4.31(c).

When a party requests a protective order under 43 C.F.R. § 4.31 on the ground that the FOIA exemption for trade secrets and commercial or financial information applies, 5 U.S.C. § 552(b)(4), it must make a statement specifying why the information is confidential. 43 C.F.R. § 4.31(a)(2)(ii). Appellant states the Petition for Stay contains trade secrets and confidential commercial information that is integrally related to its geothermal development activities; the information directly relates to its plans for commercial production and development of its geothermal leases. *See* Request to Limit Disclosure at 2.

Based on Appellant's representations, the Board hereby grants a protective order for the materials cited by Appellant in its Request to Limit Disclosure. 43 C.F.R. § 4.31(b). In the event that the parties or a member of the public challenges Appellant's characterization of the materials as exempt from disclosure under FOIA by filing a FOIA request, the Board will revisit this matter in the course of processing that request. *Id.*

  
\_\_\_\_\_  
Eileen Jones  
Chief Administrative Judge





# United States Department of the Interior

## OFFICE OF HEARINGS AND APPEALS

Interior Board of Land Appeals  
801 N. Quincy Street, Suite 300  
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703-235-3750

703-235-8349 (fax)

August 25, 2015

IBLA 2015-196

) MMS-09-0071-MIN

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WEST RIDGE RESOURCES, INC.

) Royalty

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) Motion to Limit Disclosure of

) Confidential Information Granted

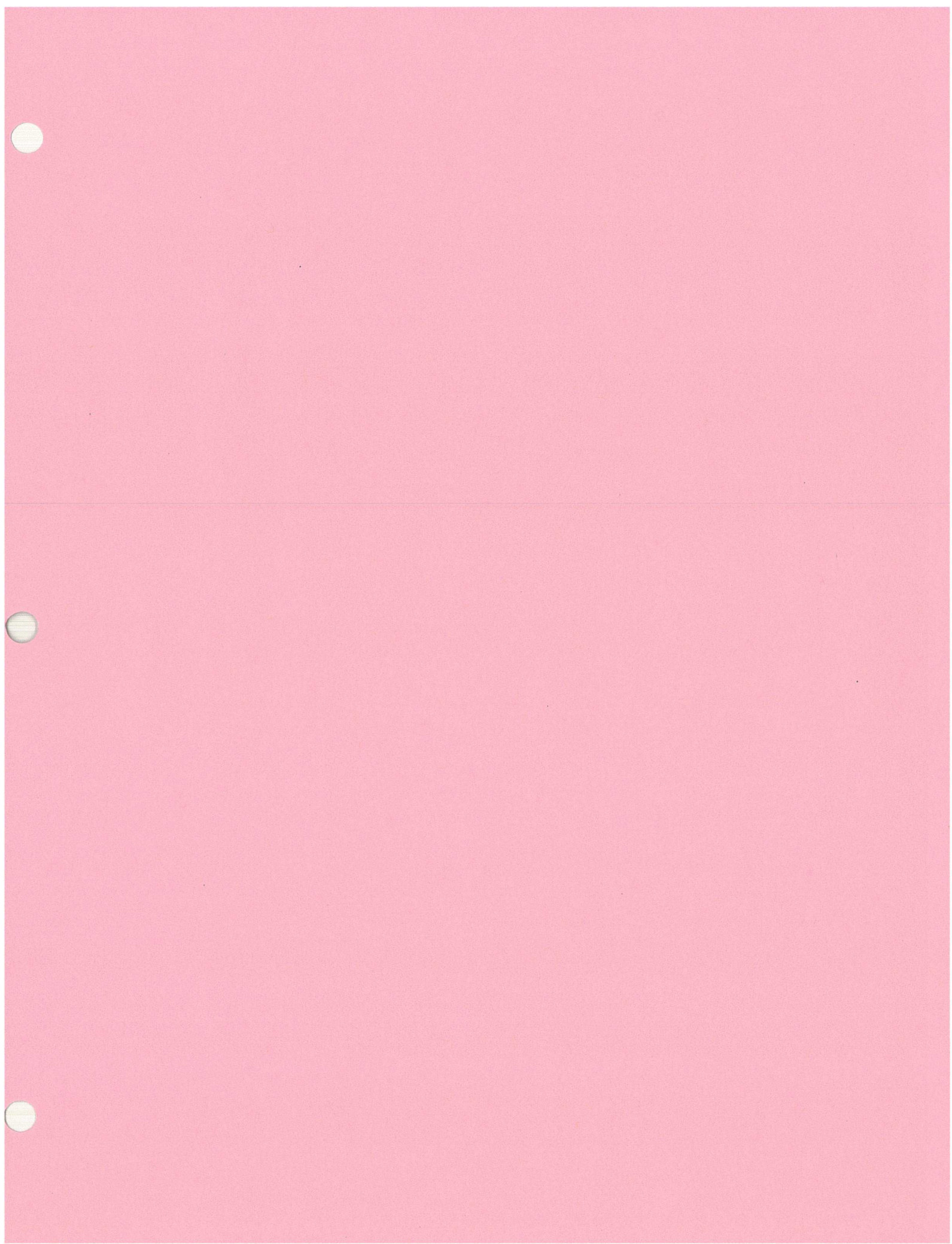
### ORDER

West Ridge Resources, Inc. (Appellant) has moved to limit disclosure of certain materials from the administrative record in the above-captioned appeal. Appellant asserts its statement of reasons (SOR) contains commercial and financial information that qualifies for an exemption under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b) (2012), and the Department's implementing regulation at 43 C.F.R. § 4.31.

When a party requests a protective order under 43 C.F.R. § 4.31 on the ground that the FOIA exemption for commercial or financial information applies, 5 U.S.C. § 552(b)(4) (2012), it must make a statement specifying why the information is confidential. 43 C.F.R. § 4.31(a)(2)(ii). Appellant states its SOR contains financial and confidential commercial information that is integrally related to its coal mining sales and pricing activities. *See* SOR at 1 n.1; *see generally* SOR at 2-4.

Based on Appellant's representations, the Board hereby grants a protective order for the materials cited by Appellant in its SOR. 43 C.F.R. § 4.31(b). In the event that the parties or a member of the public challenges Appellant's characterization of the materials as exempt from disclosure under FOIA by filing a FOIA request, the Board will revisit this matter in the course of processing that request. *Id.*

  
Eileen Jones  
Chief Administrative Judge





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Office of Hearings and Appeals  
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801 N. Quincy St., Suite 300  
Arlington, VA 22203

703-235-3750

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November 16, 2015

IBLA 2016-24

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TXNM 110367

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XTO ENERGY, INC.

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Oil and Gas Lease

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Request to Limit Disclosure of

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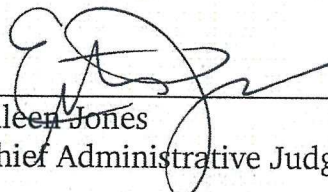
Confidential Information Granted

ORDER

XTO Energy, Inc. (XTO) has filed a Request to Limit Disclosure of Confidential Information (Request) in the above-captioned appeal. XTO claims its Petition for Stay and the Declaration of William Vertin, an associate landman for XTO, contain confidential or privileged information regarding its onshore oil and gas operations. XTO states the information in these documents are exempt from disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(4) (2012). XTO further indicates that it is not requesting nondisclosure to other parties under 43 C.F.R. § 4.31(d) and that the parties may obtain access to the cited materials under the conditions provided in 43 C.F.R. § 4.31(c).

When a party requests a protective order under 43 C.F.R. § 4.31 on the ground that the FOIA exemption for commercial information applies, it must make a statement specifying why the information is confidential. 43 C.F.R. § 4.31(a)(2)(ii). XTO states the documents contain financial expenditure data regarding drilling, plugging, and abandoning operations of the two Federal wells at issue in this appeal. Request at 2. The documents also contain proprietary data concerning the estimated remaining recoverable reserves from those wells. *Id.*

Based on XTO's representations, the Board hereby grants a protective order for the confidential information contained in both the Vertin Declaration and the Petition for Stay. 43 C.F.R. § 4.31(b). In the event the parties or a member of the public challenges XTO's characterization of the materials as exempt from disclosure under FOIA by filing a FOIA request, the Board will revisit the matter in the course of processing that request. *Id.*

  
Eileen Jones  
Chief Administrative Judge